



3510-16-P

## **DEPARTMENT OF COMMERCE**

### **United States Patent and Trademark Office**

#### **Proposed Revision of a Currently Approved Information Collection; comment request; Trademark Petitions**

**AGENCY:** United States Patent and Trademark Office, Commerce

**ACTION:** Notice

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before *{insert date 60 days after the date of publication in the Federal Register, in the format "month, day, year"}*.

**ADDRESSES:** Written comments may be submitted by any of the following methods:

- *Email:* InformationCollection@uspto.gov. Include “0651–0061 Trademark Petitions” in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Catherine Cain, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313– 1450; by telephone at 571–272-8946; or by email at [catherine.cain@uspto.gov](mailto:catherine.cain@uspto.gov) with “Paperwork” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

## **SUPPLEMENTARY INFORMATION:**

### **I. Abstract**

The USPTO administers the Trademark Act, 15 U.S.C. 1051 et seq., which provides for the registration of trademarks, service marks, collective trademarks and collective service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

Individuals and businesses may also submit various communications to the USPTO, including letters of protest, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore a filing date, and requests

for reinstatement. The USPTO uses the information described in this collection to process letters of protest, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore filing date, and requests for reinstatement. The information is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. Information relating to the registration of a trademark is made publicly available by the USPTO. The release of information in a letter of protest is controlled and may be available upon request only.

A letter of protest is an informal procedure whereby third parties who object to the registration of a mark in a pending application may bring to the attention of the USPTO evidence bearing on the registrability of the mark. A letter of protest must identify the application being protested and the proposed grounds for refusing registration and include relevant evidence to support the protest.

A request to make special may be submitted where an applicant requests that initial examination of an application be advanced out of its regular order because the mark in the application was the subject of an inadvertently cancelled or expired previous registration.

A response to a petition inquiry letter is submitted by a petitioner who is responding to a notice of deficiency that the USPTO issued after receiving an incomplete Petition to the Director. A petition may be considered incomplete if, for example, it does not include the fee required by 37 CFR 2.6 or if it includes an unverified assertion that is not supported by evidence.

The USPTO generally examines applications in the order in which they are received. A petition to make special is a request by the applicant to advance the initial examination of an application out of its regular order.

A request to restore a filing date is submitted by an applicant who previously filed an application that was denied a filing date. The request must include evidence showing that the applicant is entitled to the earlier filing date.

If an applicant has proof that an application was inadvertently abandoned due to a USPTO error, an applicant may file a request to reinstate the application instead of a formal petition to revive. To support such a request, the applicant must include clear evidence of the USPTO error.

## **II. Method of Collection**

Electronically, if applicants submit the information using the forms available through the Trademark Electronic Application System (TEAS). By mail or hand delivery, if applicants choose to submit the information in paper form.

## **III. Data**

*OMB Number:* 0651–0061.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Individuals or households; business or other for-profit organizations; not-for-profit organizations.

*Estimated Number of Respondents:* 2,988 responses per year.

*Estimated Time per Response:* The USPTO estimates that it will take approximately 35 minutes (0.58 hours) to 75 minutes (1.25 hours) to complete this information. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this information collection is shown in the table below.

*Estimated Total Annual Hour Burden:* 2,749.67 hours per year.

*Estimated Total Annual Cost Burden:* \$1,069,620.33. The USPTO expects that an attorney will complete the instruments associated with this information collection. The professional hourly rate for attorneys is \$389. Using this hourly rate applied across the 2,749.67 respondent burden hours associated with this collection, the USPTO estimates \$1,069,620.33 per year for the total hourly costs associated with respondents.

IC Number	Information Collection Instrument	Estimated time for response (hours) (a)	Estimated Annual Responses (b)	Estimated annual burden hours (a) x (b) = (c)	Rate (\$/hr) (d)	Total Cost (e) (c) x (d)
1	Letter of Protest (TEAS Global)	1.0	1,692	1,692.00	\$389.00	\$658,188.00
1	Letter of Protest (Paper)	1.25	423	528.75	\$389.00	\$205,683.75
2	Request to Make Special TEAS Global)	0.58	90	52.50	\$389.00	\$20,422.50
2	Request to Make Special (Paper)	0.75	10	7.50	\$389.00	\$2,917.50
3	Response to Petition to Director Inquiry Letter (TEAS Global)	0.58	200	116.67	\$389.00	\$45,383.33
3	Response to Petition to Director Inquiry Letter (Paper)	0.75	35	26.25	\$389.00	\$10,211.25

IC Number	Information Collection Instrument	Estimated time for response (hours) (a)	Estimated Annual Responses (b)	Estimated annual burden hours (a) x (b) = (c)	Rate (\$/hr) (d)	Total Cost (e) (c) x (d)
4	Petition to Make Special (TEAS Global)	0.58	202	117.83	\$389.00	\$45,837.17
4	Petition to Make Special (Paper)	0.75	22	16.50	\$389.00	\$6,418.50
5	Request to Restore Filing Date (TEAS Global)	0.58	1	0.58	\$389.00	\$226.92
5	Request to Restore Filing Date (paper)	0.75	5	3.75	\$389.00	\$1,458.75
6	Request for Reinstatement (TEAS Global)	0.58	262	152.83	\$389.00	\$59,452.17
6	Request for Reinstatement (paper)	0.75	46	34.5	\$389.00	\$13,420.50
<b>Total</b>	.....	.....	<b>2,988</b>	<b>2,749.67</b>	.....	<b>\$1,069,620.33</b>

*Estimated Total Annual Cost Burden (Non-Hourly):* \$22,660.19. This collection has no capital startup, maintenance, or operating fees. This collection does have postage and filing fees.

#### Postage Costs

Applicants incur postage costs when submitting non-electronic information to the USPTO by mail through the United States Postal Service. The USPTO estimates that the vast majority—approximately 98%—of the paper forms are submitted to the USPTO via first-class mail, while the rest are submitted by hand delivery. Out of 541 paper forms, the USPTO estimates that 531 forms will be mailed, at a rate of 49 cents per ounce. Therefore, the USPTO estimates that the postage costs for the paper submissions in this collection will be \$260.19.

## Filing Fees

The only item in this information collection with a filing fee is the Petition to Make Special, with a filing fee of \$100. The total estimated filing fee cost for this collection is \$22,400.

IC Number	Information Collection Instrument	Responses (yr) (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
4	Petition to Make Special (TEAS Global)	202	\$100.00	\$20,200.00
4	Petition to Make Special (Paper)	22	\$100.00	\$2,200.00
<b>Total</b>	.....	<b>224</b>	.....	<b>\$22,400.00</b>

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs (\$260.19) and filing fees (\$22,400.00), is \$22,660.19 per year.

## **IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 13, 2015.

Marcie Lovett,

Records Management Division Director, USPTO,

Office of the Chief Information Officer.

**BILLING CODE 3510-16-P**

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